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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6012 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KOTAK ANIL J

Versus

GUAJRAT ELECTRICITY BOARD

Appearance:

MR SIRAJ GHORI for HARIN P RAVAL for Petitioners

NOTICE SERVED for Respondent No. 1

MR MD PANDYA for Respondent No. 3

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 28/07/2000

ORAL JUDGEMENT

#. Petitioners, 9 in number approached this Court by filing this petition under Article 226 of the Constitution of India.

#. The petitioners have stated that they are qualified apprentices and have completed the course of Apprentice Training under the Apprentice Act, 1961. It is specifically stated that the petitioners completed their training as apprentices in the trade of Lineman during the years 1983 to 1986. Along with the petition vide Annexure : B, a zerox copy of certificate issued by Executive Engineer (O & M), G.E.B., Amreli Division is placed on record with a view to indicate that the petitioners have completed the training. The petitioners' contention is that despite the petitioners were available, the respondent - Board, by inviting applications was trying to appoint apprentices who were not in the list, and, therefore, they were constrained to file the present petition. It is further submitted by the learned counsel for the petitioners that vide Annexure : F, a decision was taken in the meeting held on 31st March, 1985. Members of the staff of the Electricity Board and the members of the Union participated in the said meeting. It is required to be noted that the point discussed with regard to recruitment was pertaining to Gondal Transmission Circle and Porbandar Circle. There was no reference to Amreli Circle or Amreli Division. It is specifically stated in Annexure : F that the posts of Helper should be filled in not by direct recruitment but trained apprentices should be appointed. Annexure : E is an office order issued by the respondent - G.E.B., Baroda. However, this office order is with regard to the method of recruitment of technical trade apprentices and absorption against the available regular vacancies. By that letter, decision of the Board had been communicated in the form of an office order. Reading the said Annexure : E, it appears that as to how the applications are to be invited and after completion of the course, how the list is to be prepared is indicated. Learned advocate for the petitioners stated that in view of the aforesaid circular, posts were to be filed in. On behalf of the respondent - Board, one B.J. Patel, Industrial Relations Officer has filed an affidavit pointing out that the Executive Engineer (O & M), Gujarat Electricity Board issued an advertisement dated 28.2.87 inviting applications for the post of Helpers only for Scheduled Caste and Schedule Tribe candidates. Vide Annexure : I, copy of the advertisement is also produced on record. It is specifically stated in the affidavit that the advertisement was required to be issued as in the merit list of trained Apprentices prepared by the Board for the Circle in question, no candidates belonging to Scheduled Caste or Scheduled Tribe were available. From the affidavit, it is also clear that there were 12 posts of

Helpers reserved for Scheduled Caste and Scheduled Tribe which were required to be filled in and therefore, an advertisement was issued with a view to invite applications from the candidates belonging to Scheduled Caste and Scheduled Tribe. It is not the case of the petitioners that they belong to Scheduled Caste or Scheduled Tribe. They are under general category and therefore, the respondent Board was justified in inviting applications from the candidates belonging to Scheduled Castes and Scheduled Tribes for appointment of Wireman. The advertisement refers to educational qualification and completion of course in Wireman trade.

#. Section 22 of the Apprentice Act, 1961 is required to be reproduced here.

"22. Offer an acceptance of employment.-

(1) It shall not be obligatory on the part of the employer to offer any employment to any apprentice who has completed the period of his apprenticeship training in his establishment nor shall it be obligatory on part of the apprentice to accept an employment under the employer.

(2) Notwithstanding anything in sub-section (1), where there is a condition in a contract of apprenticeship that the apprentice shall, after the successful completion of the apprentice training, serve the employer, the employer shall, on such completion, be bound to offer suitable employment to the apprentice, and the apprentice shall be bound to serve the employer in that capacity for such period and on such remuneration as may be specified in the contract:

Provided that where such period or remuneration is not, in the opinion of the Apprenticeship Advisor, reasonable, he may revise such period or remuneration so as to make it reasonable, and the period or remuneration so revised shall be deemed to be the period or remuneration agreed to between the apprentice and the employer."

Thus, it is pointed out by the respondent - Board that since the petitioners do not belong to Scheduled Caste or Scheduled Tribe category, there was no question of appointing them to the posts reserved for the two categories. It is further stated in para 7 of the

affidavit, that the appointments from amongst general category of trade apprentices would be made in accordance with the policy of the Board and as per the merit list. It is not the case of the petitioners that anyone out of the merit list was appointed but it is only the case of the petitioners that despite the persons being available, advertisement was given inviting applications. Therefore, there is no substance in the submission.

#. So far as the public advertisement at page 28 issued by the Gujarat Electricity Board is concerned, that was with regard to the candidates who have completed the course in Wireman trade. It has nothing to do with the Lineman. Under these circumstances, this petition having no merits must be dismissed. Accordingly, the petition is dismissed. Rule is discharged cost. Interim relief stands vacated forthwith.

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